

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #5	CCRB Case #: 201503032	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/14/2015 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 10/14/2016	EO SOL 10/14/2016	
Date/Time CV Reported Tue, 04/14/2015 12:55 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/21/2015 10:59 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SDS Christophe Castle	03409	928041	WARRSEC
2. DT3 Stephen Munafo	04422	934012	WARRSEC
3. DT3 Christophe Capone	2580	945550	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.SDS Christophe Castle	Abuse: Sgt. Christopher Castle entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 Christophe Capone	Abuse: Det. Christopher Capone entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.DT3 Stephen Munafo	Abuse: Det. Stephen Munafo entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

Densie § 87(2)(b) filed this complaint with IAB via phone on April 14, 2015, generating log number 15-09819. The complaint was received at the CCRB on April 21, 2015, via log number 2015-10130.

On April 14, 2015, at approximately 7:00 a.m., Sgt. Christopher Castle, Det. Christopher Capone, and Det. Stephen Munafo of the Brooklyn North Warrant Squad arrived at § 87(2)(b)'s home at § 87(2)(b) in Brooklyn to arrest § 87(2)(b)'s son, § 87(2)(b) pursuant to four active arrest warrants and two active ICARDs with probable cause to arrest. Sgt. Castle, Det. Capone, and Det. Munafo, opened the unlocked front door of the house and entered the residence without § 87(2)(b)'s consent (**Allegations A, B, and C**). Det. Capone and Det. Munafo then descended the stairs to the basement of the house. § 87(2)(b) emerged from her bedroom and approached Sgt. Castle, who stood in the foyer between the inner front door and outer front door. Det. Capone returned to the first floor of the home and spoke with § 87(2)(b). Det. Munafo then observed § 87(2)(b) and his girlfriend, § 87(2)(b) enter the basement of the house through the back door. Det. Munafo pursued § 87(2)(b) who exited the basement into the backyard upon observing Det. Munafo, and he arrested § 87(2)(b) in the backyard. Sgt. Castle, Det. Capone, and Det. Munafo then escorted § 87(2)(b) to the Brooklyn Robbery Squad and had no further interactions with him (Board Review 01 and 02).

§ 87(2)(b) and § 87(2)(b) witnessed the incident, and they were interviewed on May 14, 2015, and May 27, 2015, respectively.

Mediation, Civil, and Criminal Histories

This case was unsuitable for mediation due to § 87(2)(b)'s arrest. As of May 20, 2015, neither § 87(2)(b) nor § 87(2)(b) has filed a notice of claim with the City of New York (Board Review 03). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 06).
- Sgt. Castle has been a member of the NYPD for 13 years and has been the subject of six prior CCRB complaints involving 17 allegations, none of which were substantiated. § 87(2)(g) (See officer history).
- Det. Capone has been a member of the NYPD for seven years and has been the subject of three prior CCRB complaints involving seven allegations of which two allegations for a vehicle search and a refusal to provide name and shield were substantiated. § 87(2)(g) (See officer history).
- Det. Munafo has been a member of the NYPD for 11 years and has been the subject of eight prior CCRB complaints involving 22 allegations of which two allegations for stops of a person were substantiated. § 87(2)(g) (See officer history).

Potential Issues

§ 87(2)(b) provided an unverified statement via phone after she rejected efforts to schedule both in-person and field interviews. An attempt was made to send the Field Team to

§ 87(2)(b)'s place of employment for her to sign a verification form, but § 87(2)(b) did not appear at work on this scheduled date. § 87(2)(b) then stated that she would bring the signed verification form to a notary and return it to the CCRB. A verification form was mailed to § 87(2)(b) but it was never returned to the CCRB.

§ 87(2)(b)'s brother, § 87(2)(b) claimed to have witnessed the incident. After two missed appointments and multiple contact attempts, the CCRB was unable to obtain a statement from § 87(2)(b).

Identification of Subject Officers

§ 87(2)(b) stated that she observed four subject officers during the incident, but § 87(2)(b) and § 87(2)(b) both stated that only three officers were present. Sgt. Castle, Det. Capone, and Det. Munafo acknowledged interacting with § 87(2)(b) and § 87(2)(b) during the incident, and they stated that no other officers were present during the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Christopher Castle entered and searched § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: Det. Christopher Capone entered and searched § 87(2)(b) in Brooklyn.

Allegation C – Det. Stephen Munafo entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that Sgt. Castle, Det. Capone, and Det. Munafo entered and searched § 87(2)(b) in Brooklyn pursuant to arrest warrants for § 87(2)(b) (Board Review 01, 02, 07, 08, and 09).

§ 87(2)(b)'s residence at § 87(2)(b) is a three story, private home owned by § 87(2)(b) (Board Review 01 and 19). The front door to the building has an outer door and an inner door separated by a small foyer area (Board Review 19, Page 2). The inner door leads to an approximately 15 feet-long hallway on the first floor of the home that ends at the doorway to § 87(2)(b)'s bedroom (Board Review 19, Page 2). Stairs leading to the basement of the house are located mid-way down the hallway on the left-hand side, and an additional stairwell leading to the third floor of the home are located a few feet closer to § 87(2)(b)'s bedroom door (Board Review 19, Page 2). Upon entering the house through the outer door of the apartment, one can only enter the house through the inner door leading directly to the first floor hallway; there is no other doorway from the foyer area leading to any other part of the residence (Board Review 19, Page 2).

§ 87(2)(b) stated that she was asleep in her house when she heard knocking and exited her bedroom to investigate the noise. At this time, she observed Sgt. Castle and two other police officers in plainclothes standing in the foyer between her inner and outer front doors. § 87(2)(b) walked down the hallway toward these officers and asked them to explain their reason for being inside of her house. § 87(2)(b) stated that these officers stepped into the main hallway of her home and then stepped back into the foyer area as she approached them. When § 87(2)(b) reached the stairway leading to the basement of the house, Det. Capone walked up the stairs into the hallway. § 87(2)(b) argued with Sgt. Castle and Det. Capone for a short time before one of these officer said, "He's in the back." The officers then exited the house and went around the residence to the backyard where § 87(2)(b) discovered § 87(2)(b) in handcuffs with Det. Munafo and § 87(2)(b) standing nearby (Board Review 01).

According to § 87(2)(b) he and § 87(2)(b) who lives with him in the basement of § 87(2)(b) left the basement through the backdoor approximately ten minutes prior to Sgt. Castle, Det. Capone, and Det. Munafo's arrival. They went to the store and then returned to the house. § 87(2)(b) and § 87(2)(b) began to enter the basement through the backdoor at which time they observed Det. Munafo standing in the basement near the stairs. § 87(2)(b) walked up the outside basement stairs to the backyard of the residence upon seeing Det. Munafo while § 87(2)(b) entered the apartment. Det. Munafo then exited the basement through the backdoor and handcuffed § 87(2)(b). Sgt. Castle and Det. Capone arrived from around the corner of the house, and they and Det. Munafo escorted § 87(2)(b) to the Brooklyn Robbery Squad where he was questioned by Det. Brian Madigan regarding an ongoing robbery investigation. § 87(2)(e), § 87(2)(f)

§ 87(2)(g) (Board Review 02, 07, and 09).

§ 87(2)(b) confirmed that she and § 87(2)(b) left the basement prior to the officers' arrival, went to the store, and returned to find Det. Munafo standing inside the basement near the stairs leading to the first floor of the house (Board Review 10).

Sgt. Castle, Det. Capone, and Det. Munafo stated that they arrived at § 87(2)(b) to enforce § 87(2)(b)'s four active arrest warrants and two I-cards for § 87(2)(b) and various summons violations (Board Review 07, 08, and 09). The existence of these warrants and ICARDs was confirmed by police documentation (Board Review 11, 12, 13, 14, and 18). The officers believed that § 87(2)(b) lived at § 87(2)(b) because this address was listed on his arrest warrants and ICARDs (Board Review 07, 08, and 09). At least one of the I-cards specified that § 87(2)(b) lived in the basement of § 87(2)(b) while the arrest warrants did not provide a specific location inside of the house (Board Review 07, 08, and 09). In addition, other investigators from the Brooklyn Warrant Squad previously spoke with § 87(2)(b) and § 87(2)(b) and all three confirmed that § 87(2)(b) lived at § 87(2)(b) along with § 87(2)(b) and § 87(2)(b) (Board Review 07, 08, and 09). This previous investigation also revealed that § 87(2)(b) worked late at night (Board Review 07). Sgt. Castle, Det. Capone, and Det. Munafo were aware of these prior investigative actions before arriving at § 87(2)(b) (Board Review 07, 08, and 09).

When the officers arrived at § 87(2)(b) Sgt. Castle stated that he heard the sound of a television or radio from the basement, and he stated that the officers knocked on the front door to the basement, receiving no response (Board Review 07). Det. Munafo and Det. Capone stated that the officers proceeded directly to the front door of the house upon their arrival and that they did not attempt to enter the basement from the outside (Board Review 08 and 09). Neither Det. Munafo nor Det. Capone observed anything about the house to indicate that someone was present inside upon their initial approach (Board Review 08 and 09). According to the officers, Sgt. Castle spoke with a neighbor while the officers stood at the front door to the house, and this individual confirmed that § 87(2)(b) lived at the house after viewing a picture of him (Board Review 07, 08, and 09). Sgt. Castle stated that this individual noted that § 87(2)(b) was present in the house on the night prior to the officer's arrival (Board Review 07).

After knocking at the outer front door with no response, the officers opened the door, which was unlocked, and entered the foyer between the outer and inner doors (Board Review 07, 08, and 09). At this time, Det. Munafo stated that he heard the faint sound of a television coming from the basement (Board Review 09), but Det. Capone did not hear anything to indicate that someone was present in the house (Board Review 08). The officers knocked on the inner front door, but there was no answer (Board Review 07, 08, and 09). Det. Munafo and Det. Capone

opened the inner front door, which was unlocked, and entered the main hallway of the house while Sgt. Castle remained in the foyer between the inner and outer front doors (Board Review 07, 08, and 09).

Det. Munafo and Det. Capone walked down the main hallway until they reached the stairs to the basement (Board Review 08 and 09). They then walked a few steps down the stairs at which time § 87(2)(b) emerged from her bedroom and began yelling at the officers (Board Review 08 and 09). At this time, Det. Capone returned to the hallway while Det. Munafo remained on the stairs (Board Review 08 and 09). Det. Munafo could clearly see into the basement at this time, and he did not see anyone present inside the basement (Board Review 09). While Det. Capone and Sgt. Castle spoke with § 87(2)(b), Det. Munafo observed § 87(2)(b) and § 87(2)(b) open the back door of the basement and begin to enter (Board Review 09). Det. Munafo stated that, upon seeing him, § 87(2)(b) exited the basement through the back door and closed it behind him (Board Review 09). According to the officers, Det. Munafo then put over the radio that § 87(2)(b) was in the rear of the house (Board Review 07, 08, and 09), and Det. Capone and Sgt. Castle exited the house through the front door to go around the house to the backyard (Board Review 07 and 08). According to Det. Munafo, he walked through the basement in pursuit of § 87(2)(b) followed him into the backyard, and handcuffed him without incident (Board Review 09).

The officers stated that they entered the house to enforce § 87(2)(b)'s arrest warrants (Board Review 07, 08, and 09). The officers believed § 87(2)(b) lived at the location due to the fact that the address was listed on § 87(2)(b)'s arrest warrants and due to the previous investigative steps taken by other investigators at the Brooklyn Robbery Squad (Board Review 07, 08, and 09). Sgt. Castle and Det. Munafo also stated that the officers believed § 87(2)(b) to be present at time of the entry (Board Review 07 and 09). According to Sgt. Castle, this belief was based on the sound of the television, the fact that the neighbor stated that § 87(2)(b) was at the house on the previous night, and the fact that prior investigative actions determined that § 87(2)(b) worked at night (Board Review 07). Det. Capone did not possess any specific indication that § 87(2)(b) was inside of the house at the specific time of their entry (Board Review 08), and Det. Munafo stated that the sound of the television indicated to him that someone was present inside of the house (Board Review 09).

Generally, officers entering a residence to perform an arrest must possess a warrant. According to *Payton v. New York*, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within (Board Review 15). However, as stated in CPL S 120.80 and affirmed by *People v. Cabral*, a police officer with an arrest warrant may only enter the defendant's residence if he has a reasonable belief that the defendant is present at the time of the arrest warrant execution (Board Review 16 and 17).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

[illegible]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date